



Fair Up or Down Vote

May 11, 2005

Noteworthy:

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WHILE MISUNDERSTANDING THE INTENT OF THE FRAMERS, CHRIS DODD LAUNCHES NEGATIVE ATTACK ON SENATOR FRIST

In The Battle Over Judicial Filibusters, Senator Chris Dodd Claimed The Founding Fathers Would Have Sided With The Democrats As Republicans Seek “To Destroy The Senate.” “Sen. Christopher J. Dodd, always a man of the institution, sat Tuesday in the ornate Senate reception room, surrounded by portraits of the giants who came before him. But he was uncomfortable. Senate Republicans want to change the filibuster rule so that it would take only 51 votes to end any debate over nominees to the federal bench. . . . ‘They’re debating with Madison, Monroe, Hamilton, the generation that put the system together,’ he said. ‘Because of their displeasure with what Democrats are doing, they are willing to destroy the Senate as an institution.’” (David Lightman, “Dodd’s Spirited Defense Of Filibusters,” *The Hartford Courant*, May 11 2005)

Dodd Condescendingly Accused Majority Leader Bill Frist Of Being “Less Aware” Of The Senate’s History. “‘Frist, [Dodd] lamented, ‘hasn’t been here long enough. He was promoted to the job through the White House, and he’s less aware of the history of the institution.’” (David Lightman, “Dodd’s Spirited Defense Of Filibusters,” *The Hartford Courant*, May 11 2005)

CONTRARY TO DODD’S BOASTS, THE FOUNDING FATHERS SUPPORTED UP-OR-DOWN VOTES OF PRESIDENTIAL NOMINEES

Alexander Hamilton Wrote That The Senate Could “Ratify Or Reject” A Presidential Nominee, Implying Nominees Needed An Up-Or-Down Vote. “It will be the office of the President to NOMINATE, and, with the advice and consent of the Senate, to APPOINT. There will, of course, be no exertion of CHOICE on the part of the Senate.

They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves CHOOSE, they can only ratify or reject the choice of the President.”
(Alexander Hamilton, The Federalist No. 66)

Writing In *The Federalist*, Hamilton Declared That Subjecting The Majority To The Will Of The Minority Leads To “Impotence” And “Disorder.” “It has been shown . . . that all provisions which require more than the majority of any body to its resolutions have a direct tendency to embarrass the operations of the government and an indirect one to subject the sense of the majority to that of the minority. . . . And the history of every political establishment in which this principle has prevailed is a history of impotence, perplexity, and disorder.” (Alexander Hamilton, The Federalist No. 75)

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PRESIDENT BUSH and U.S. Senate Republicans have the far better case in the matter of Democrats refusing to allow judges to be voted on in a straightforward, up-or-down fashion. The problem is that Republicans aren't very good at public relations "spin" — and the Democrats have a ready ally in much of Big Media.

But if the Republicans don't wise up and have the guts to stop the Democrats' current misuse of the filibuster, they will find that a President Hillary Clinton and her pals will have no such problem in suddenly "discovering" that the Founding Fathers never intended judges or other Presidential appointments to be blocked in this manner.

The filibuster — the rules of which have in fact been changed (by Democrats) over the years — has been used and was intended to be used to slow or block legislation. Sometimes, it has been used disgracefully so. Civil rights legislation was blocked for decades by anti-black Southern senators.

But only when George Bush came to office four years ago did Democrats in the Senate use the threat of filibuster to block judicial nominations from getting before the full Senate for a simple majority vote.

This has to be one of the great and most shameless legal loophole flimflams in our history. With courts being overrun by judicial activists, the voters' only recourse is to elect a President and Senate that will appoint judges who won't try to re-make the law.

To let a small group of extremist Democrats block even a vote on those appointments with this legalistic trick is outrageous. We are quite sure the Presidential Primary voters of New Hampshire will be watching carefully to see how Republican senators act on this crucial matter.